

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

DERRICK PHILLIP DRAYTON,

Plaintiff,

Case Number: 10-11851

v.

HON. MARIANNE O. BATTANI

THE BANK OF NEW YORK MELLON  
TRUST COMPANY, NATIONAL  
ASSOCIATION f/k/a THE BANK OF NEW  
YORK TRUST COMPANY, N.A. AS  
SUCCESSOR TO JP MORGAN CHASE  
BANK N.A. sbm BANK ONE NATIONAL  
ASSOCIATION AS TRUSTEE FOR RASC  
2001KS2, TROTT & TROTT and WAYNE  
COUNTY SHERIFF'S DEPARTMENT,

Defendants.

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**ORDER GRANTING TROTT & TROTT, P.C.'S MOTION TO DISMISS COMPLAINT  
PURSUANT TO FRCP 12(b)(6) AS ITS FIRST RESPONSIVE PLEADING, GRANTING  
DEFENDANT BANK OF NEW YORK MELLON TRUST, N/A'S MOTION FOR  
JUDGMENT ON THE PLEADINGS AND GRANTING IN PART WAYNE COUNTY'S  
MOTION TO DISMISS BASED ON FRCP 12(b)(6) FAILURE TO STATE A CLAIM  
& MOTION FOR SUMMARY JUDGMENT UNDER FRCP 56(c)**

This matter is before the Court on Defendant Trott & Trott, P.C.'s (Trott & Trott) Motion to Dismiss Complaint (Doc. No. 12), Defendant Bank of New York Mellon Trust, N.A.'s (Bank of New York Mellon) Motion for Judgment on the Pleadings (Doc. No. 19), and Defendant Wayne County's Motion to Dismiss Based on FRCP 12(b)(6) Failure to State a Claim & Motion for Summary Judgment Under FRCP 56(c) (Doc. No. 16). For the reasons stated on the record at a hearing held on November 3, 2010, the Court **GRANTS** Trott & Trott's motion and Bank of New York Mellon's motion.

The Court **GRANTS** in part Wayne County Sheriff's Department's request for dismissal. Accordingly Counts II and Count III are dismissed. The Court takes the motion under advisement as to Count V.

Accordingly, Defendants Trott & Trott and Bank of New York Mellon are **DISMISSED**.

**IT IS SO ORDERED.**

s/Marianne O. Battani  
MARIANNE O. BATTANI  
UNITED STATES DISTRICT JUDGE

Dated: November 16, 2010

#### **CERTIFICATE OF SERVICE**

Copies of this Order were served upon counsel of record on this date by ordinary mail and/or electronic filing.

s/Bernadette M. Thebolt  
Case Manager